

State of Nevada

Common-Interest Communities and Condominium Hotels Program

Department of Business & Industry Real Estate Division





HOA Reserve Studies

Disclaimer

This is a general education class based on NRS 116 and related laws and regulations. It is not intended to provide a legal opinion or legal advice. If you feel there has been a violation of your governing documents or NRS116 statute you can file a complaint with the Ombudsman's office



Learning Objectives

Upon completion of this class, participants will have a basic understanding of...

- ☐ Reserve Studies– What is a Reserve Study, The Reserve Study within Annual Budget
- ☐ Physical Analysis
 - ☐ The CICs common elements
 - ☐ Useful life, remaining life
 - ☐ Replacement costs
- ☐ Reserve Study Specialist
 - ☐ Qualifications
 - ☐ Standard of practice
 - ☐ Required disclosure
 - ☐ Grounds for disciplinary action
- ☐ Reserve Studies – Financial Analysis
 - ☐ Cost per unit per month
 - ☐ Funding plan,
 - ☐ Long-term projections
 - ☐ Updates



The Reserve Study

Preserve, repair, and replace the major components of the common elements of the association



HOW DOES YOUR COMMUNITY LOOK?





Or is this what your
HOA looks like?

What a reserve study is NOT!

A reserve study is not intended to be used to perform an audit, an analysis of quality, a forensic study or a background check of historical records

What is a Reserve Study?

A detailed analysis of what it will cost a community to repair, replace and restore major components of the common elements and any other portion of the community which it is obligated to preserve

Protect, preserve, and enhance the common elements

Maintain the community's character, lifestyle and standards

Optimize long-term property values



Declarant Transition

- The declarant must deliver to the association a reserve study, conducted by a registered reserve study specialist
- A reserve account that contains the declarant's share of the amount then due
- Control of the account transferred to the association
- Written disclosure of the amount per unit the declarant has paid to subsidize assessments

(NRS 116.31038(3))



Assessments for common expenses

The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore.

Usage of Reserve Assessments

The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and **must not** be used for daily maintenance.

Adequately funded reserve account

“Adequately funded reserve” means the funds sufficient to maintain the common elements:

At the level described in the governing documents and in a reserve study; and

(b) **Without** using the funds from the operating budget or without special assessments, except for occurrences that are a result of unforeseen catastrophic events.



Unit Owners being informed about Reserve Study Account



Informed by requesting records

The executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation:

(c) The study of the reserves of the association



Informed during annual unit-owners

meeting

The executive board shall, **not less than 30 days or more than 60 days** before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

The budget to provide **adequate funding for the reserves**

The current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements



The budget must include, without limitation: determination

A statement as to whether the executive board has **determined** or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore or to provide adequate funding for the reserves designated for that purpose;





The budget must include procedure used

A general statement describing the procedures
used for the estimation and accumulation of cash

(2), including, without limitation, the
qualifications of the person responsible for the
preparation of the study of the reserves
or summaries of such budgets and policy for
collection of fees, fines, assessments or costs;
ratification of budget



Special Reserve Assessments

NRS 116.3115(2)(b):

- *...the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community.*
- *Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to [NRS 116.31152.](#)*



Start->Review the past few studies

1. Review to see if all common elements listed
2. Review to see if any changes in common elements since last study
3. Are all common elements in the correct account? (operating vs reserve study)
4. Verify the measurement are accurate
5. Are there any major differences between any two studies?

Preparing for the Study

- ▶ Pass a resolution
 - Consider appointing a committee to facilitate the process (check governing documents)
- ▶ Solicit bids
 - Open and read aloud at a regular meeting
- ▶ Gather documents
 - Plats, maps, governing documents, maintenance records, warranties, previous studies
- ▶ Select provider
 - Coordinate/monitor process



THE RESERVE STUDY

NRS 116.31152 Study of reserves

1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

NRS 116.31152 Study of reserves

The 5 year period for conducting a reserve study commences on the date on which the on-site inspection of the major components is performed

Major Components

“Major component of the common elements” means any component of the common elements, including, without limitation, any amenity, improvement, furnishing, fixture, finish, system or equipment, that may, within 30 years after its original installation, require repair, replacement or restoration in excess of routine annual maintenance which is included in the annual operating budget of an association.

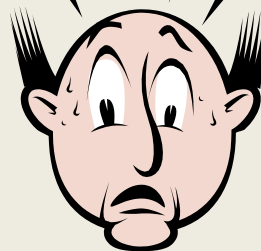
(Added to NRS by [2005, 2581](#)) NRS 116.0605 “Major component of the common elements” defined.



Funding–

NRS 116.3115(2)(b), NAC 116.425(2)

- ▶ Associations must establish “adequate reserves.”
- ▶ They must be funded on a “reasonable basis.”
- ▶ Must fund the repair, replacement and restoration of the common elements without using operating funds or special assessments. AVOID \$TICKER SHOCK



Funding Formulas

- ▶ Full Funding
 - 100% of the money required to replace the common elements is available when it is needed
- ▶ Threshold Funding
 - A specific dollar amount or percentage is set by the board. (70% or greater is considered strong position)
- ▶ Baseline Funding
 - The threshold is above zero.



Reserve study:30 year Schedule

A 30–year schedule which shows:

- ▶ The actual or projected beginning balance of the reserve fund.
- ▶ The projected increase in reserve contributions to the reserve fund, adjusted for inflation.
- ▶ The estimated interest income, net of projected federal income tax, earned in the reserve fund.

Reserve study:30 year Schedule

A 30–year schedule which shows:

The projected expenditures from the reserve fund;
and

The projected ending balance of the reserve fund;

The names and credentials of any consultants and
others persons with expertise

Any conflicting recommendations and as to
recommendation were selected and reasons for
their selection

Reserve study:30 year Schedule

A 30–year schedule which shows:

- ▶ The number of units in the association;
- ▶ A general statement of current status of reserve fund
- ▶ A general statement of overall status of the reserves of the association
- ▶ The beginning and ending dates for which the study was prepared.
- ▶ A general statement describing computation of initial balance

Reserve study:30 year Schedule

A listing and detailing description of each major component of the common elements;

A table showing the remaining useful life of each major component from the time of each component's initial or last installation, maintenance, repair, replacement or restoration

Using the current replacement cost, a 30 year table that reflects the projected ending reserve fund balance for each year as compared to the fully funded balance for that year;

A general statement describing the objective of the funding plan that is designed to allocate the costs for the maintenance, repair, replacement of the major components.

Types of Reserve Studies

- ▶ 1. A full Reserve Study– on–site, full measurements
- ▶ 2. An update to a previous study made pursuant to a **visit** to the site of the common–interest community
- ▶ 3. An update to a previous reserve study made **without a visit** to the site of the common–interest community

Full Reserve Study

In inventory and measurement of the major components of the common elements

An assessment of the condition of the major components –which is based on–site visual observations

Estimates of the remaining useful life and valuation of the major components of the common elements

Financial analysis of data and status of the reserve fund; and

Development of a funding plan;

Update to previous study-on-site visit

A verification of a previous inventory of the major components of the common elements

A quantification of major components if there has been any changes to the current inventory.

An assessment of the condition of the major components

Estimates of the remaining useful life of the major components

Financial analysis of data and status of reserve fund

Development of a funding plan;

Update to previous reserve study without a visit

- ▶ Estimates of the remaining useful life of the major components
- ▶ Financial analysis of the data
- ▶ Status of the reserve fund; and
- ▶ Development of a funding plan

Getting Started !

Steps in a Reserve Study

- ▶ Review past Reserve Studies
- ▶ List/inspect common elements
- ▶ Determine remaining useful life
- ▶ Determine replacement cost
- ▶ Develop/approve funding plan
- ▶ Adopt and implement the plan
- ▶ Report to the Ombudsman (form 609)



Physical Analysis

- ▶ Physical description
 - Identify/list each common element and it's major components
 - Physical assessment to determine condition
 - Maintenance records
 - Manufacturer/vendor information
 - Manufacturer /vendor warranties
 - Useful life, remaining life, replacement year
 - Estimated replacement costs



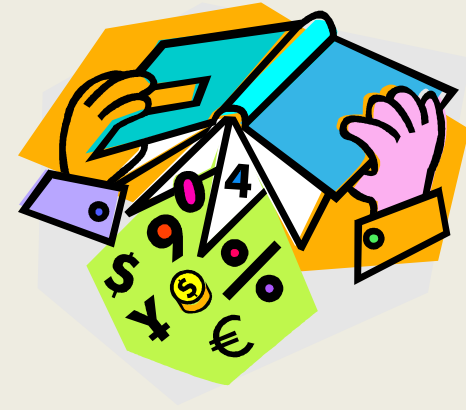
Common Elements may include:

- ▶ Streets
- ▶ Curbing, Sidewalks
- ▶ Lighting
- ▶ Signs
- ▶ Driveways
- ▶ Parking areas
- ▶ Carports
- ▶ Lighting
- ▶ Irrigation systems
- ▶ Drainage systems
- ▶ Recreation facilities
- ▶ Golf courses
- ▶ Pools, pumps, heaters
- ▶ Playgrounds
- ▶ Basketball courts
- ▶ Clubhouses
- ▶ Landscaping
- ▶ Parks, lakes and ponds
- ▶ Trails
- ▶ Fences and railings
- ▶ Gates and entrances
- ▶ And more...



Information Resources

- ▶ Vendors
- ▶ Industry documents
- ▶ Warranties
- ▶ Maintenance records
- ▶ Previous reserve study
- ▶ Governing documents
- ▶ Industry experts
- ▶ Community Manager
- ▶ Board Members
- ▶ Unit Owners



Things to consider...

- ▶ Weather
- ▶ Vandalism
- ▶ Natural disasters
- ▶ Lack of routine maintenance
- ▶ Changes in the cost of supplies
- ▶ Changes in the cost of labor
- ▶ Changes in the interest rate
- ▶ Changes in technology



Working with a Reserve Study Specialist

Bid proposal

Sec. 2. NRS 116.31086 is hereby amended to read as follows:

1. If an association solicits bids for an association project :

(a) The association must, whenever reasonably possible, solicit at least three bids if the association project is expected to cost:

(1) In a common-interest community that consists of less than 1,000 units, 3 percent or more of the annual budget of the association; or

(2) In a common-interest community that consists of 1,000 or more units, 1 percent or more of the annual budget of the association; and

*(b) The bids **must** be opened and read aloud during a meeting of the executive board.*

Questions to Ask

How many studies has the potential reserve study individual completed?

Have they ever completed a study for the same size of community?

What or who do you use for reference in determining costs?
(vendors or engineers)

How long does it take to complete the study?

Will there be progress updates?

Do they have any references that you could check with on quality of work?

*check NRED website to be sure license is current



Reserve Study Specialist

The study of the reserves required one must be conducted by a person who is registered with Division

Not required to have a reserve study: If the common-interest community contains 20 or fewer units and is located in a county whose population is less than 55,000,

The study of the reserves required by may be conducted by any person whom the executive board deems qualified to conduct the study.



Available individuals

The Division shall maintain a list of all persons who have registered with the Division as a reserve study specialist and make the list available to the public

(NAC 116A.410 Maintenance and availability of list of persons who have registered with Division. ([NRS 116A.200](#), [116A.430](#))

Reserve Study Specialist must register with Division

A person must submit:

(a) A registration on a form prescribed by the Division which includes the name and business address of the person registering as a reserve study specialist; and

(b) A fee in an amount to be established annually by the Division to cover the administrative cost of registering the person.

A registration as a reserve study specialist expires 2 years after the date on which the registration and fee required are submitted to the Division,

unless the reserve study specialist submits to the Division another registration and fee before that date.

Renew registration as a Reserve Study specialist

- ▶ Successfully complete at least 6 hours of CE
- ▶ Of which three hours relating to chapters 116, 116a, and 116b; and
- ▶ Three hours of instruction relating to financial matters; and
- ▶ Submit another registration form and fee; and documentation of successful completion of the continuing education

Qualifications

A person is qualified by training and experience to register as a reserve study specialist if the person has:

(a) A good reputation for honesty, trustworthiness and integrity;

(b) The ability to evaluate the items on the component inventory with regard to normal and accelerated deterioration, deferred maintenance, remaining years of useful life and the current cost to repair, replace or restore;

(c) The ability to perform financial analysis, cost estimates and 30-year projections, as applicable;

NAC 116A.420 Registration: Qualifications; refusal or revocation by Division. ([NRS 116A.200](#), [116A.430](#))

Abilities of a Reserve Study Specialist

The ability to **review** improvement plans and specifications, maintenance histories, recorded plats and governing documents of the association in order to compile a complete component inventory and to consult with the executive board to ascertain and confirm that the component inventory is complete;

The ability to **gather and analyze** financial data, including, without limitation, monthly assessment fees per unit, the current balance of reserves, the anticipated interest rate on reserves, and the anticipated inflation and maximum increases in assessment fees; and

The background and knowledge pertinent to all areas to be addressed by the reserve study.

NAC 116A.420 Registration: Qualifications; refusal or revocation by Division. ([NRS 116A.200](#), [116A.430](#))

Division's Right to Refuse Registration

If the Division finds that a person who has submitted a registration to the Division is not qualified by training and experience to register as a reserve study specialist, the Division shall:

If the Division has not yet registered the person, refuse to register the person as a reserve study specialist.

(b) If the Division has registered the person, revoke the registration.

(Added to NAC by Comm'n for Common-Interest Communities& Condo. Hotels by R145-06, eff. 4-17-2008; A by R164-09, 5-5-2011)

NAC 116A.420 Registration: Qualifications; refusal or revocation by Division.
([NRS 116A.200](#), [116A.430](#))

Standard of Practice for a Reserve Specialist

1. **Comply with** the relevant lawful provisions of the **governing documents** of each client
2. Disclose in writing to the client any actual, potential or perceived **conflict of interest** if the client has dealings with another person
3. Maintain an **inventory of reserve study records** of each client for at **least 6 years**
4. Keep informed of **new developments** in the field of reserve studies through continuing education
5. Ensure that the **information** used to prepare a reserve study is **complete** based upon information provided by the client and from data reasonably available from industry sources
6. Cooperate with the Division in any investigation

Required Disclosures

The background, training, qualifications and references that would qualify the person as competent.

Any relationship that could result in actual or perceived conflict of interest

Whether the reserve study specialist is bonded or has professional liability insurance , with a minimum coverage of \$1,000,000.

Method of determining common elements:

The method or methods for determining the common area components based on:

Actual on-site inspection of the common elements;
An inventory and material information provided by the client
A previous reserve study and the date of that study; or
Plans ,governing documents or any additional industry resources used by the person conducting or assisting in the preparation of the reserve study.

Industry sources used for determining the life of a major component and cost of maintaining, repairing, replacing or restoring a major component

If known, any guarantees, express or implied, that are provided by any component manufacturer or service provider, with the predictions that would affect the cost or life expectancy of any of the major components

Disclosure

- ▶ Whether a reserve assessment is anticipated during the 30 year life of the reserve study.
- ▶ The source of the interest rate and inflation rate assumption used in the 30 year projection
- ▶ Any components which are not included in the funding projection in the reserve study and the reason for excluding those components from that funding projection.

Disciplinary Action against Reserve Study Specialist

Filing a complaint

If you feel that the reserve study specialist has violated the NRS116, NAC116 or your associations governing documents you can file a complaint with office of the Ombudsman.

Grounds for disciplinary action

NAC 116A.435 Grounds for disciplinary action; criteria for determining unprofessional conduct and professional incompetence

1. A reserve study specialist is subject to disciplinary action if the reserve study specialist:

(a) **Commits** any of the following:

(1) **Unprofessional conduct;**

(2) **Professional incompetence;**

(3) **Negligence** or gross negligence; or

(4) **A felony** or any offense involving moral turpitude; or

(b) Has ever had a permit, license or designation from a nationally recognized professional organization that authorizes him or her to act as a reserve study specialist in another jurisdiction revoked or suspended.

Grounds for disciplinary action

Acts of unprofessional conduct :

Engages in deceitful, fraudulent or dishonest conduct, including, without limitation, knowingly communicating false, misleading or fraudulent information to a client;

Submits a registration which contains a false statement of material fact

Exceeds the authority granted to him or her by the client.

Fails to cooperate with the Division

Demonstrates a significant lack of ability, knowledge or fitness to perform a duty or obligation owed to a client; or

Fails to exercise reasonable skill and care with respect to a duty or obligation owed to a client.

The Reserve Study Financial Analysis

Financial Analysis

- ▶ Current status of the reserve account
- ▶ Estimated balance needed in the reserve account by year for the next 30 years
- ▶ Estimation and explanation of reserve deficit, if any and a plan to correct
- ▶ Recommended increases in assessments needed to meet reserve requirements
- ▶ Recommended special assessments needed, if any



Reporting Requirements Reminder

NRS 116.31152(4)

- Not later than 210 days after the board receives a draft the reserve study, the executive board shall submit a summary of the reserve study to the Division a report must be submitted to the Office of the Ombudsman.
- Form 609 can be found on our web site, www.red.state.nv.us




EXAMPLES

Example: The association is responsible for a road that must be replaced in 10 years. Replacement costs are estimated at \$10,000.

- Put \$1,000 per year into the reserve account to ensure the money will be available when needed.
- Divide cost, PMPU(per month per unit) and add to assessment. ($\$1,000/12 \text{ months} = \83.34 per month.
- In a 100-unit association, the impact, $83.34/100$, is \$0.84 per unit per month.)
- Update the estimate annually, adjust accordingly.
- Update the study every 5 years, adjust accordingly.



Reserve Study Yearly Summary

Year	Fully Funded	Starting Balance	% Funded	Income	Interest	Expense
2010	\$46,438	\$19,676	42%	\$9,600	\$336	\$4,400
2011	\$46,387	\$25,212	54%	\$9,888	\$446	\$1,288
2012	\$49,633	\$34,258	69%	\$10,185	\$594	\$0
2013	\$54,397	\$45,037	83%	\$10,490	\$382	\$49,951
2014	\$7,953	\$5,958	75%	\$3,960	\$120	\$0
2015	\$11,667	\$10,038	86%	\$4,079	\$152	\$3,985
	30-year projections					
2040	\$43,063	\$44,118	102%	\$7,594	\$724	\$0



Funding a Reserve Deficit

Item	Replacement Cost	Useful Life	Current Age	Target Balance
Painting	\$10,000	5	3	\$6,000
Paving	\$14,000	7	4	\$8,000
Roofing	\$30,000	15	11	\$22,000
Total	<u>\$54,000</u>			<u>\$36,000</u>
Current Reserve Balance				\$24,000
Deficit				(\$12,000)
Units				100
Per Unit Deficit				\$120
Monthly Contribution Per Unit				\$10



Reserve Account

NRS 116.3115(2)(b)

- ▶ A separate account containing monies earmarked for the repair or replacement of common elements.
- ▶ Deposits come from a portion of the regular assessments.



Written notice of action to be taken

The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered

or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

(NRS 116.3115 Assessments for common expenses; funding of adequate reserves;)

The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves.
Thus keeping your property looking the best!



NRS 116.31152 Study of reserves; duties of executive board regarding study



The End Result – A Workable Plan

- ▶ Physical Description
 - Number/types of units
 - Listing of the common elements – condition, remaining life, replacement costs
- ▶ Financial Description
 - Condition of the reserve fund
 - Starting balance, recommended contributions, projected expenses, ending balance
 - Economic assumptions (inflation/interest rates)
 - 30–year cash flow summary
- ▶ Resources
 - Computational methods, data sources



Summary

- ▶ A reserve study, performed by a registered reserve study specialist, must be obtained every 5 years and updated annually
- ▶ A reserve study includes...
 - A physical analysis of the status of the common elements, their remaining useful life and the cost in current dollars for their repair or replacement
 - A financial analysis of the status of the reserve account and a financial plan designed to ensure the money needed to repair and replace the common elements is available



Summary

A reserve study can be completed by a Reserve Study Specialist

Reserve Study Specialist must follow “Standards of Practice”

Disciplinary action can be taken towards reserve study specialists

Be sure to ask the right questions

Review the study before signing the check



QUESTIONS?

- ▶ Web Site
 - www.red.nv.gov
- ▶ Phone
 - 702.486.4480/877.829.9907/775.687.4280
- ▶ FAX
 - 702.486.4520/775.687.4868
- ▶ E-Mail
 - OMBCLASSES@red.state.nv.us
- ▶ Office Locations
 - 2501 East Sahara Ave, Suite 202, Las Vegas, NV 89104
 - 1179 Fairview Drive, Suite E, Carson City, NV 89701



Resources for clip art

1. Little girl –retrieved 02/19/2015

https://www.google.com/search?newwindow=1&biw=1633&bih=773&tbm=isch&oq=cartoon+character+handing++something+to+another+characters&gs_l=img.12...97209.118063.0.120047.50.48.2.0.0.8.269.5460.0j41j3.44.0.msedr...0...1c.1.62.img..50.0.0.CB2EyVC1Iz0&q=carto+character+handing+something+to+another+characters

2. Gentlemen and spy glass– retrieved 02/19/2015

<http://imgbuddy.com/looking-eyes-magnifying-glass.asp>

3, Richie Rich– retrieved 02/19/2015

https://www.google.com/search?newwindow=1&biw=1633&bih=773&tbm=isch&sa=1&q=cartoon+character+with+a+checklist&oq=cartoon+character+with+a+checklist&gs_l=img.12...1277675.1288741.0.1290666.44.33.0.3.3.3.230.4257.0j28j2.30.0.msedr...0...1c.1.62.img..27.17.2053.L1swHaI9TN8

4. Smiling Sun– retrieved 02/19/2015

https://www.google.com/search?newwindow=1&biw=1633&bih=773&tbm=isch&sa=1&q=cartoon+character+with+a+checklist&oq=cartoon+character+with+a+checklist&gs_l=img.12...1277675.1288741.0.1290666.44.33.0.3.3.3.230.4257.0j28j2.30.0.msedr...0...1c.1.62.img..27.17.2053.L1swHaI9TN8

5. Man with check off list–retrieved 02/19/2015

https://www.google.com/search?newwindow=1&biw=1633&bih=773&tbm=isch&sa=1&q=cartoon+character+with+a+checklist&oq=cartoon+character+with+a+checklist&gs_l=img.12...1277675.1288741.0.1290666.44.33.0.3.3.3.230.4257.0j28j2.30.0.msedr...0...1c.1.62.img..27.17.2053.L1swHaI9TN8

Reference Slides



Availability of records

NRS 116.31175 Maintenance and availability of books, records and other papers of association: General requirements; exceptions; general records concerning certain violations; enforcement by Ombudsman; limitations on amount that may be charged to conduct review

1. Except as otherwise provided in subsection 4, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation:

- (a) The financial statement of the association;
- (b) The budgets of the association required to be prepared pursuant to [NRS 116.31151](#);
- (c) The study of the reserves of the association required to be conducted pursuant to [NRS 116.31152](#); and
- (d) All contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party.





Executive Boards shall.....

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.





Annual distribution to units' owners of operating and reserve budgets

NRS 116.31151 Annual distribution to units' owners of operating and reserve budgets or summaries of such budgets and policy for collection of fees, fines, assessments or costs; ratification of budget

1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, **not less than 30 days or more than 60 days before the beginning of the fiscal year of the association**, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and **any contributions** to be made to the **reserve account** of the association.

(b) The budget to provide **adequate funding for the reserves** required by paragraph (b) of subsection 2 of [NRS 116.3115](#).



NAC 116.415 Contents of budget to maintain reserve

An executive board shall, in addition to the requirements set forth in paragraph (b) of subsection 1 of [NRS 116.31151](#), include in the budget to maintain the reserve:

1. An estimate of the amount of reserve funds necessary in the projected fiscal year, based on comparative bids or industry standards, to complete the repairs, replacement or restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore as recommended in the study of reserves conducted pursuant to [NRS 116.31152](#); and

2. If the projected balance of the reserve account at the end of the budgeted fiscal year is less than the amount required to adequately fund the reserves on a reasonable basis at the end of the budgeted fiscal year, as determined by the study of reserves conducted pursuant to [NRS 116.31152](#):

(a) The reason for the difference; and

(b) How this difference is proposed to be resolved by the executive board.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Ho. by R135-

09, 8-13-2010)

8/26/2015





NAC 116.425 Reserve study: Contents. ([NRS 116.31152](#), [116.615](#))

1. A reserve study must, in addition to the requirements set forth in [NRS 116.31152](#), include:

(a) A copy of the component inventory from the previous reserve study if such copy was provided by the executive board to the person conducting the reserve study;

(b) A 30-year schedule which shows:

(1) The projected increase in assessments that will be required in any given year to provide an adequately funded reserve;

(2) The projected inflation and estimated interest income from the reserve fund; and

(3) The projected ending balance of the reserve fund;

(c) The names and credentials of any consultants and other persons with expertise used to assist in the preparation of the reserve study;

(d) Any written reports prepared by consultants and other persons with expertise;





NAC 116.425 Reserve study: Contents. ([NRS 116.31152](#), [116.615](#))

- (e) If there are any conflicting recommendations of the consultants or other persons with expertise while preparing the reserve study, a written explanation as to which recommendations are selected and the reasons for their selection;
- (f) The number of units in the association;
- (g) A general statement describing the current status of the reserve fund;
- (h) A general statement describing the objectives of the reserve study and the methods used in computing and evaluating the current status of the reserve fund;
- (i) Establish policies and procedures that are designed to provide reasonable assurances in the reliability of financial reporting, including, without limitation, proper maintenance of accounting records, documentation of the authorization for receipts and disbursements, verification of the integrity of the data used in making business decisions, facilitation of fraud detection and prevention, and compliance with the applicable laws and regulations governing financial records;



NAC 116.425 Reserve study: Contents. ([NRS 116.31152](#), [116.615](#))

1. A reserve study must include:

(j) Prepare interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of the association is fairly presented in accordance with the provisions of [NAC 116.451](#) to [116.461](#), inclusive;

(k) Make the financial records of the association available for inspection by the Division in accordance with the applicable laws and regulations of this State;

(l) Cooperate with the Division in resolving complaints filed with the Division; and

(m) Adopt and fairly enforce the collection policies of the association.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities, Condo. Hotels by R108-08, 4-20-2010)

8/26/2015



Standard of Practice for Reserve Specialist

NAC 116A.425 Standards of practice. ([NRS 116A.200](#), [116A.420](#))

1. A reserve study specialist who prepares a reserve study shall:

(a) Comply with the applicable provisions of [chapter 116](#), [116A](#) or [116B](#) of NRS or any regulations adopted pursuant thereto (b) Comply with the relevant lawful provisions of the governing documents of each client;

(c) Agree to perform only those reserve studies which the person can reasonably expect to perform with professional competence;

(d) Exercise due care and exhibit adequate planning and supervision of conduct relating to the performance of a reserve study;

(e) Disclose in writing to the client any actual, potential or perceived conflict of interest if the client has dealings with another person who:

(1) Has a financial interest in the business relationship between the reserve study specialist and the client; or

(2) Is an employee of or otherwise affiliated with the association;

Standard of Practice (continued)

NAC 116A.425 Standards of practice. ([NRS 116A.200](#), [116A.420](#))

(f) Maintain an inventory of reserve study records of each client for at least 6 years;

(g) Keep informed of new developments in the field of reserve studies through continuing education, including, without limitation, new developments in the law, methods of funding and other topics necessary for the proper preparation of reserve studies;

(h) Ensure that the information used to prepare a reserve study is complete based upon information provided by the client and from data reasonably available from industry sources; and

(i) Cooperate with the Division in any investigation conducted pursuant to the provisions of [chapter 116](#), [116A](#) or [116B](#) of NRS or any regulations adopted pursuant thereto.

Standard of Practice (continued)

NAC 116A.425 Standards of practice.

([NRS 116A.200](#), [116A.420](#))

2. A reserve study specialist who prepares a reserve study shall not:

(a) Make inaccurate or misleading representations or statements to a prospective client; or

(b) Misrepresent facts for his or her own benefit.

(Added to NAC by Comm'n for Common-Interest Communities& Condo. Hotels by R145-06, eff. 4-17-2008)

A Reserve study specialist must disclose in writing:

NAC 116A.430 Required disclosures. ([NRS 116A.200](#), [116A.420](#)) Before entering into a contract to perform a reserve study,

a reserve study specialist shall disclose in writing to the prospective client any material and relevant information that the reserve study specialist knows or should know relates to the performance of the contract for the reserve study, including, without limitation,

any matters which may affect his or her ability to comply with the provisions of [chapter 116](#), [116A](#) or [116B](#) of NRS or any regulations adopted pursuant thereto.

Grounds for disciplinary action

NAC 116A.435 Grounds for disciplinary action; criteria for determining unprofessional conduct and professional incompetence. ([NRS 116A.200](#), [116A.420](#), [116A.430](#))

2. A reserve study specialist commits an act of **unprofessional conduct** if the reserve study specialist:

(a) **Violates** the provisions of:

(1) An **order of the Commission**;
(2) An **agreement with the Division**; or
(3) [Chapter 116](#), [116A](#) or [116B](#) of NRS or any regulation adopted pursuant thereto;

(b) **Engages in deceitful, fraudulent or dishonest conduct**, including, without limitation, knowingly communicating **false, misleading or fraudulent information** to a client;

(c) **Submits a registration which contains a false statement of material fact**;

Criteria for determining conduct

NAC 116A.435 Grounds for disciplinary action; criteria for determining unprofessional conduct and professional incompetence. ([NRS 116A.200](#), [116A.420](#), [116A.430](#))

(d) **Fails to cooperate with the Division** in the investigation of a complaint, including, without limitation, failure to produce any document, book or record in the possession or control of the reserve study specialist after the Division requests the production of such document, book or record in the course of investigating a complaint;

(e) **Fails to perform impartially and consistently an activity** that is lawful and properly authorized on behalf of a client or **fails to perform a duty** or obligation owed to a client because of the age, race, color, religion, national origin, disability, marital status, familial status, sex or ethnicity of any person, including, without limitation, a member of the executive board, an officer of the association, a unit's owner, a tenant of the common-interest community or a visitor of the common-interest community; or

(f) **Exceeds the authority granted to him or her by the client**

NRS 116.770 Procedure for hearing complaints: Time for holding hearing; continuances; notices; evidence; answers; defaults.

4. At any hearing on the complaint, the Division may not present evidence that was obtained after the notice was given to the respondent pursuant to this section, unless the Division proves to the satisfaction of the Commission or the hearing panel that:

(a) The evidence was not available, after diligent investigation by the Division, before such notice was given to the respondent; and

(b) The evidence was given or communicated to the respondent immediately after it was obtained by the Division.

5. The respondent must file an answer not later than 30 days after the date that notice of the complaint is delivered or mailed by the Division. The answer must:

(a) Contain an admission or a denial of the allegations contained in the complaint and any defenses upon which the respondent will rely; and

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.

NRS 116.770 Procedure for hearing complaints: Time for holding hearing; continuances; notices; evidence; answers; defaults.

6. If the respondent does not file an answer within the time required by subsection 5, the Division may, after giving the respondent written notice of the default, request the Commission or the hearing panel to enter a finding of default against the respondent. The notice of the default must be delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address.

(Added to NRS by [2003, 2215](#))

Grounds for disciplinary action

Made reasonable efforts to acquire knowledge of all pertinent facts concerning a client, including, without limitation, all material facts regarding the reserve study that are reasonably ascertainable and are of customary or express concern to the client, and conveyed that knowledge to the client;

Provided or attempted to provide to a client services for which the reserve study specialist does not have the appropriate knowledge or experience;

- (d) Complied with the disclosure requirements of [NAC 116A.430](#);
- (e) Complied with the client's applicable governing documents, policies and procedures as they relate to a reserve study;
- f) Kept informed of current statutes and regulations relating to common-interest communities;
- (g) Acted in the best interest of the client;
- (h) Ensured that each agreement for services of the reserve study specialist was in writing; and
- (i) Obtained all changes of contractual terms in writing and ensured that such changes are signed or initialed by the parties concerned

Grounds for disciplinary action

NAC 116A.435 Grounds for disciplinary action; criteria for determining unprofessional conduct and professional incompetence. ([NRS 116A.200](#), [116A.420](#), [116A.430](#))

4. In determining whether a reserve study specialist has committed unprofessional conduct or professional incompetence, the Commission and the Administrator may consider, without limitation, whether the reserve study specialist has:

(f) Kept informed of current statutes and regulations relating to common-interest communities;

(g) Acted in the best interest of the client;

(h) Ensured that each agreement for services of the reserve study specialist was in writing; and

(i) Obtained all changes of contractual terms in writing and ensured that such changes are signed or initialed by the parties concerned.

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, eff. 4-17-2008; A by R164-09, 5-5-2011)

Grounds for disciplinary action

NAC 116A.435 Grounds for disciplinary action; criteria for determining unprofessional conduct and professional incompetence. ([NRS 116A.200](#), [116A.420](#), [116A.430](#))

4. In determining whether a reserve study specialist has committed unprofessional conduct or professional incompetence, the Commission and the Administrator may consider, without limitation, whether the reserve study specialist has:

(f) Kept informed of current statutes and regulations relating to common-interest communities;

(g) Acted in the best interest of the client;

(h) Ensured that each agreement for services of the reserve study specialist was in writing; and

(i) Obtained all changes of contractual terms in writing and ensured that such changes are signed or initialed by the parties concerned.

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, eff. 4-17-2008; A by R164-09, 5-5-2011)

NRS 116.770 Procedure for hearing complaints: Time for holding hearing; continuances; notices; evidence; answers; defaults.

1. Except as otherwise provided in subsection 2, if the Administrator files a formal complaint with the Commission, the Commission or a hearing panel shall hold a hearing on the complaint not later than 90 days after the date that the complaint is filed.

2. The Commission or the hearing panel may continue the hearing upon its own motion or upon the written request of a party to the complaint, for good cause shown, including, without limitation, the existence of proceedings for mediation or arbitration or a civil action involving the facts that constitute the basis of the complaint.

3. The Division shall give the respondent written notice of the date, time and place of the hearing on the complaint at least 30 days before the date of the hearing. The notice must be:

(a) Delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address.

(b) Accompanied by:

(1) A copy of the complaint; and

(2) Copies of all communications, reports, affidavits and depositions in the possession of the Division that are relevant to the complaint.

Grounds for disciplinary action

NAC 116A.435 Grounds for disciplinary action; criteria for determining unprofessional conduct and professional incompetence. ([NRS 116A.200](#), [116A.420](#), [116A.430](#))

4. In determining whether a reserve study specialist has committed unprofessional conduct or professional incompetence, the Commission and the Administrator may consider, without limitation, whether the reserve study specialist has:

(b) Made reasonable efforts to acquire knowledge of all pertinent facts concerning a client, including, without limitation, all material facts regarding the reserve study that are reasonably ascertainable and are of customary or express concern to the client, and conveyed that knowledge to the client;

(c) Provided or attempted to provide to a client services for which the reserve study specialist does not have the appropriate knowledge or experience;

(d) Complied with the disclosure requirements of [NAC 116A.430](#);

(e) Complied with the client's applicable governing documents, policies and procedures as they relate to a reserve study;

NRS 116.31153 Signatures required for withdrawals of certain association funds; exceptions

1. Money in the reserve account of an association required by paragraph (b) of subsection 2 of [NRS 116.3115](#) may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.

3. Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:

(a) Transfer money to the reserve account of the association at regular intervals;

(b) Make automatic payments for utilities;

(c) Make an electronic transfer of money to a state agency pursuant to [NRS 353.1467](#); or

(d) Make an electronic transfer of money to the United States Government, or any agency thereof, pursuant to any federal law requiring transfers of money to be made by an electronic means authorized by the United States Government or the agency thereof.

Grounds for disciplinary action

NAC 116A.440 Conduct of proceedings to hear complaints. ([NRS 116A.200](#), [116A.430](#))

Any proceeding to hear a complaint filed against a reserve study specialist will be conducted in the same manner as set forth in [NRS 116.770](#).

(Added to NAC by Comm'n for Common-Interest Communities& Condo. Hotels by R145-06, eff. 4-17-2008)

Terms

NAC 116.070 “Reserve study” defined. ([NRS 116.615](#))
“Reserve study” means the study required pursuant to [NRS 116.31152](#)

NAC 116.037 “Component inventory” defined. ([NRS 116.615](#)) “Component inventory” means a list of major components of the common elements identified in a reserve study that may require repair, replacement or restoration.

NAC 116A.085 “Reserve study specialist” defined. ([NRS 116A.200](#)) “Reserve study specialist” means a person who conducts a study of the reserves of an association pursuant to [NRS 116.31152](#) or [116B.605](#).



Terms

- ▶ Current replacement cost
 - The cost to replace a reserve component in today's dollars
- ▶ Useful life
 - The length of time, in years, that a reserve component is expected to last
- ▶ Remaining useful life
 - The length of time, in years, remaining before a reserve component must be replaced.(useful life minus years in use = remaining useful life)
- ▶ PMPU (PUPM)
 - Amount paid by unit's owners, Per Month Per Unit, or Per Unit Per Month

